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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,694	12/27/2001	Michel Marcel	1F-1285	9289
466	7590	09/10/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202		LEE, EDMUND H		
		ART UNIT		PAPER NUMBER
		1732		

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/026,694	MARCEL ET AL.
	Examiner	Art Unit
	EDMUND H. LEE	1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 25 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-9 is/are pending in the application.
  - 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 5-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/25/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

1. This application contains claims 1-4 drawn to an invention nonelected with traverse in Paper mailed 1/8/04. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn (USPN 4619806) in view of Bruning (USPN 5156798). In regard to claim 5, Gunn teaches the basic claimed apparatus including a machine for manufacturing packaging articles, each article having a hollow body provided with a neck-forming open end, the machine being of the type comprising at least one assembly comprising a mold (figs 1-13); means for positioning a flat piece of thermoplastic material over an open end of a recess of the mold (figs 1-13); means for heating the material (figs 1-13); a punch having a piston axially displaceable into the mold from a retracted, rest position in which it is situated outside the mold, into an active, blank-forming position in which it penetrates inside the mold (figs 1-13); and means for blowing the resulting blank against the wall of the mold wherein the mold is constituted by separable elements each constituting a matrix for molding a segment of an article, the elements being associated with one another by drive means for controlling displacement thereof to open or close

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the mold (figs 1-13). Gunn also teaches separable elements comprising bottom mold element 85 separable from intermediate mold element 81 (figs 6 and 8). However, Gunn does not teach a bottom of the mold provided with at least one suction tube for connection to a suction apparatus for holding an article against the bottom while the mold is opened. Bruning teaches a machine for removing a bottle from a mold (figs 1-15); and using a suction positioned at the bottom of the article to hold the article during conveyance (figs 1-15). Gunn and Bruning are combinable because they are analogous with respect to removing a bottle from a mold. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include at least one suction tube in the bottom mold of Gunn in order to prevent displacement of the bottle of Gunn during its movement. In regard to claims 6-9, Gunn teaches means for handling articles (figs 1-13); and a trimming means (fig 13). However, Gunn does not teach a bottom mold having channels opening out to the outside; and cooling channels in the mold. In regard to a bottom mold having channels opening out to the outside, such is well-known in the blow molding art in order to prevent damage and wrinkles in the blown article. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include channels in the bottom mold of Gunn in order to prevent damage and wrinkles to the blown bottle of Gunn. In regard to cooling channels in the mold, such is well-known in the molding art in order to solidify a product such that it will not be damaged during subsequent movement. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made

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to include cooling channels in the mold of Gunn in order to solidify the bottle of Gunn such that it will not be damaged during subsequent movement.

4. Applicant's arguments filed 6/25/04 have been fully considered but they are not persuasive. Applicant argues that Gunn does not teach a bottom mold element separable from an intermediate mold element. This argument is misplaced because it is clear from figs 6 and 8 of Gunn that element 85 serves as a bottom mold element since element 85 defines the shape of the bottom surface of the molded bottle and element 85 is separable from intermediate mold element 81.

Applicant also argues that the bottom wall of Bruning is not separable and the section cups of Bruning are flexible thus inappropriate for a blowing mold. In regard to the bottom wall of Bruning being inseparable, applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The limitation for a separable bottom mold element is met by Gunn, i.e., Bruning is not relied upon to meet this limitation. In regard to the suction cups of Bruning, applicant argues that the flexibility of the cups does not lend itself to use in a blowing mold. Applicant is reminded that the use of flexible elastomeric material for the cups is a preferred teaching of Bruning. In fact, Bruning teaches the cups can be made of any conventional material. The cups of Bruning do not have to be made from flexible elastomeric material. It should be noted that Bruning was provided to illustrate the obviousness of

incorporating at least one suction tube into the bottom mold element of Gunn. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include suction channels as taught by Bruning in the bottom mold of Gunn in order to prevent damage and wrinkles to the blown bottle of Gunn.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Both Edwards (USPN 3173174) and Wendt (USPN 4851178) teach the state of blow molding machines.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is

571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDMUND H. LEE  
Primary Examiner  
Art Unit 1732

EHL

  
9/18/04